

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed June 7, 2006. Reconsideration and allowance of the application and pending claims are respectfully requested.

I. Claim Rejections - 35 U.S.C. § 102(b)

Claims 1-42 have been rejected under 35 U.S.C. § 102(b) as being anticipated by *Konishi, et al.* ("Konishi," U.S. Pub. No. 2002/0003576). Applicant respectfully traverses this rejection.

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(b).

In the present case, not every feature of the claimed invention is represented in the Konishi reference. Applicant discusses the Konishi reference and Applicant's claims in the following.

A. The Konishi Disclosure

Konishi discloses a video camera apparatus having a "VIDEO MODE" in which high quality video can be captured, and an "INTERNET MODE" in which lower quality video can be captured for real time transfer via the Internet. As described by Konishi:

The video camera apparatus 11 has two video shooting/recording modes, i.e., video mode (VIDEO MODE) and Internet mode (INTERNET MODE). The video mode is a mode for shooting a high quality motion video, and is mainly used

to obtain an encoded motion video file to be reproduced and displayed on the TV 12 or personal computer 13. The Internet mode is a mode for obtaining an encoded motion video file having a low bit rate that is suitable for real time transfer of a motion video via the Internet. The user can properly select the video mode and Internet mode with an operation button. When the video mode is selected, motion video compression encoding at a high bit rate that is necessary to attain high quality is executed. When the Internet mode is selected, the target bit rate of motion video compression encoding is automatically switched to a value optimal for real time transfer of a motion video via the Internet. An arrangement for switching the bit rate in accordance with selection of the video mode/Internet mode is shown in FIG. 3.

Konishi, paragraph 0069.

B. Applicant's Claims

As indicated above, each of Applicant's remaining independent claims has been amended through this Response. In view of those amendments, Applicant respectfully submits that the rejections are moot as having been drawn against the claims in a previous form. Applicant therefore requests that the rejections be withdrawn.

Turning to the merits of Applicant's claims, as amended, Applicant contends that *Konishi* does teach or suggest, for example, "determining a sustainable data transfer rate between a data appliance and an *external memory medium that is directly connectable to the data appliance*" as in claim 1. As described above, *Konishi* only describes controlling video compression relative to whether data is to be locally stored or streamed over the Internet. No data transfer determination is made relative to a data transfer rate between an appliance (e.g., *Konishi*'s video camera apparatus) and a memory medium that is "directly connectable to the appliance". Applicant

notes that similar recitations are contained in Applicant's other independent claims 9, 18, 24, and 38.

II. Canceled Claims

Claims 4, 32, and 34-37 have been canceled from the application without prejudice, waiver, or disclaimer. Applicant reserves the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

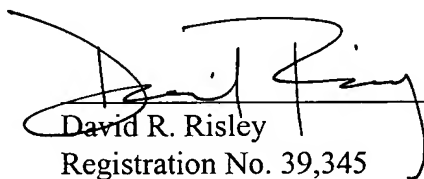
III. New Claims

Claims 43-47 have been added into the application through this Response. Applicant respectfully submits that these new claims describe an invention novel and unobvious in view of the prior art of record and, therefore, respectfully requests that these claims be held to be allowable.

CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,


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